

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA**

SENTENCING MEMORANDUM

COMES NOW Defendant Cody Penfield, by and through the undersigned counsel and hereby submits this Sentencing Memorandum for consideration by this Court. For the reasons discussed below, Mr. Penfield respectfully requests that this Court (1) impose a variance and sentence significantly below the guidelines range; (2) find that such sentence is reasonable given Mr. Penfield's history and characteristics, the nature of the offense, and the kinds of sentences available; and (3) apply a downward departure as may be warranted.

I. PROCEDURAL BACKGROUND

On November 8, 2018, Mr. Penfield was charged in a multi-defendant indictment with conspiracy to possess with intent to distribute, and to distribute, 50 grams or more of methamphetamine, in violation of 21 U.S.C. § 846, 21 U.S.C. § 841(a)(1), and 21 U.S.C. § 841(b)(1)(A). On February 5, 2019, Mr. Penfield entered a negotiated guilty plea to Count 1 of the Indictment. On May 9, 2019 , the United States Probation Office issued a Presentence Report (“PSR”) recommending that a Criminal History Category VI and an Offense Level 31 be applied to Mr. Penfield. On May 23, 2019, Mr. Penfield filed his objections to the PSR, which have since been withdrawn. On May 29, 2019, the final PSR was issued without objection, recommending a variance and sentence of 151 months custody and 5 years supervised release, and also identifying “factors that may warrant departure” as an unresolved guideline issue.

II. PERSONAL HISTORY

Mr. Penfield is a 28-year-old father to one child and is a lifelong resident of the Savannah area. Mr. Penfield graduated from Groves High School in Savannah on June 14, 2008, where he was a four-year varsity letterman on the school's baseball team. He was seriously injured in 2011 following a motorcycle accident in which he fractured his leg and pelvis. As part of his medical treatment and recovery from multiple orthopedic surgeries, Mr. Penfield was prescribed narcotic pain medication.

Unfortunately, Mr. Penfield developed an addiction to these opiate pain killers which began his downward spiral into a serious drug addiction including his use of methamphetamine. Mr. Penfield was under the care of Dr. William Bacon of Valdosta, Georgia, who was sentenced in the Southern District of Georgia to 72 months imprisonment in 2018 for operating a "pill mill," and who prescribed Mr. Penfield significant quantities of oxycodone and Xanax from 2011 to 2012. Mr. Penfield became heavily addicted to methamphetamine between 2013 and 2017, and struggled to complete inpatient substance abuse treatment from which he was unsuccessfully discharged in 2017.

Despite Mr. Penfield's struggles with drug addiction, he did pursue various vocational skills and occupations. At the time when he was arrested for the instant offense in June 2018, Mr. Penfield was enrolled in an online program studying medical billing and coding. Mr. Penfield has described his efforts to apply for numerous jobs while relying on a bicycle for transportation in a rural area. Mr. Penfield has also worked in several construction and warehousing positions, as well as in the food service industry. While Mr. Penfield's struggles with addiction do not excuse his criminal conduct, he would like to make the court aware of these details of his personal background and circumstances.

III. ARGUMENT

Mr. Penfield does not raise any objection to the proper application of the Sentencing Guidelines, and is aware that his offense carries a mandatory minimum sentence of 120 months. As such, Mr. Penfield seeks the mercy of this Court to impose a significant variance below the guidelines range of 262 to 327 months and even below the recommended variance by the probation officer. Mr. Penfield has accepted responsibility for his actions, as demonstrated by his timely plea of guilty. Any sentence either within the guidelines or with a variance of 151 months as recommended by the Probation Office is still significantly higher than any prior term of imprisonment that Mr. Penfield has served previously, and higher than any co-defendant's sentence. A sentence within the guidelines range would result in a sentencing disparity amongst other more culpable co-conspirators. Therefore, Mr. Penfield respectfully requests that the Court impose a sentence that takes into account all relevant factors, to include the unresolved guideline issue of factors that may warrant departure.

Respectfully submitted this 7th day of June, 2019.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

UNITED STATES OF AMERICA,)
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vs.) CASE NUMBER 4:18CR260
)
CODY PENFIELD,)
)

CERTIFICATE OF SERVICE

This is to certify that I have on this day served the appropriate parties in this case in accordance with the notice of electronic filing ("NEF") which was generated as a result of electronic filing in this Court.

Respectfully submitted this 7th day of June, 2019.

ARNOLD & STAFFORD

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